

Serrano	Stump	Vento
Sessions	Stupak	Visclosky
Shadegg	Sununu	Vitter
Shaw	Sweeney	Walden
Shays	Talent	Walsh
Sherman	Tancredo	Wamp
Sherwood	Tanner	Waters
Shimkus	Tauscher	Watkins
Shows	Tauzin	Watt (NC)
Shuster	Taylor (MS)	Watts (OK)
Simpson	Taylor (NC)	Waxman
Sisisky	Terry	Weiner
Skeen	Thomas	Weldon (FL)
Skelton	Thompson (CA)	Weldon (PA)
Slaughter	Thompson (MS)	Weller
Smith (MI)	Thornberry	Wexler
Smith (NJ)	Thune	Weygand
Smith (TX)	Thurman	Whitfield
Smith (WA)	Tiahrt	Wicker
Snyder	Tierney	Wilson
Souder	Toomey	Wise
Spence	Towns	Wolf
Spratt	Trafficant	Woolsey
Stabenow	Turner	Wu
Stark	Udall (CO)	Wynn
Stearns	Udall (NM)	Young (AK)
Stenholm	Upton	Young (FL)
Strickland	Velazquez	

## NAYS—1

Kucinich

## NOT VOTING—10

Becerra	Doolittle	Lewis (CA)
Brown (CA)	Ehrlich	Pickett
Brown (FL)	Fossella	
Cox	Green (TX)	

So the resolution was agreed to.

A motion to reconsider the vote whereby said resolution was agreed to was, by unanimous consent, laid on the table.

## ¶74.9 PROVIDING FOR THE

## CONSIDERATION OF H.R. 10

Mr. SESSIONS, by direction of the Committee on Rules, called up the following resolution (H. Res. 235):

*Resolved*, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 2(b) of rule XVIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 10) to enhance competition in the financial services industry by providing a prudential framework for the affiliation of banks, securities firms, and other financial service providers, and for other purposes. The first reading of the bill shall be dispensed with. All points of order against consideration of the bill are waived. General debate shall be confined to the bill and shall not exceed 90 minutes, with 45 minutes equally divided and controlled by the chairman and ranking minority member of the Committee on Banking and Financial Services and 45 minutes equally divided and controlled by the chairman and ranking minority member of the Committee on Commerce. After general debate the bill shall be considered for amendment under the five-minute rule. In lieu of the amendments now printed in the bill, it shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule an amendment in the nature of a substitute consisting of the text of the Rules Committee Print dated June 24, 1999. That amendment in the nature of a substitute shall be considered as read. All points of order against that amendment in the nature of a substitute are waived. No amendment to that amendment in the nature of a substitute shall be in order except those printed in the report of the Committee on Rules accompanying this resolution. Each amendment may be offered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report equally divided

and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. All points of order against the amendments printed in the report are waived. The Chairman of the Committee of the Whole may: (1) postpone until a time during further consideration in the Committee of the Whole a request for a recorded vote on any amendment; and (2) reduce to five minutes the minimum time for electronic voting on any postponed question that follows another electronic vote without intervening business, provided that the minimum time for electronic voting on the first in any series of questions shall be 15 minutes. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the amendment in the nature of a substitute made in order as original text. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

When said resolution was considered.

After debate,

On motion of Mr. SESSIONS, the previous question was ordered on the resolution to its adoption or rejection.

The question being put, viva voce,

Will the House agree to said resolution?

The SPEAKER pro tempore, Mr. EWING, announced that the yeas had it.

Mr. MOAKLEY objected to the vote on the ground that a quorum was not present and not voting.

A quorum not being present,

The roll was called under clause 6, rule XX, and the call was taken by electronic device.

When there appeared	Yeas .....	227
	Nays .....	203

## ¶74.10

[Roll No. 264]

## YEAS—227

Aderholt	Chabot	Galleghy
Archer	Chambliss	Ganske
Armey	Chenoweth	Gekas
Bachus	Coble	Gibbons
Baker	Coburn	Gilchrest
Balleger	Collins	Gillmor
Barr	Combest	Gilman
Barrett (NE)	Cook	Goode
Bartlett	Cooksey	Goodlatte
Barton	Cox	Goodling
Bass	Crane	Gordon
Bateman	Cubin	Goss
Bereuter	Cunningham	Granger
Biggert	Davis (VA)	Green (WI)
Bilbray	Deal	Greenwood
Bilirakis	DeLay	Gutknecht
Bliley	DeMint	Hansen
Blunt	Diaz-Balart	Hastert
Boehlert	Dickey	Hastings (WA)
Boehner	Doolittle	Hayes
Bonilla	Dreier	Hayworth
Bono	Duncan	Hefley
Boucher	Dunn	Herger
Brady (TX)	Ehlers	Hill (MT)
Bryant	Ehrlich	Hilleary
Burr	Emerson	Hobson
Burton	English	Hoekstra
Buyer	Everett	Horn
Callahan	Ewing	Hostettler
Calvert	Fletcher	Houghton
Camp	Foley	Hulshof
Campbell	Forbes	Hunter
Canady	Fowler	Hutchinson
Cannon	Franks (NJ)	Hyde
Castle	Frelinghuysen	Isakson

Istook	Northup	Shimkus
Jenkins	Norwood	Shuster
Johnson (CT)	Nussle	Simpson
Johnson, Sam	Ose	Skeen
Jones (NC)	Oxley	Smith (MI)
Kasich	Packard	Smith (NJ)
Kelly	Paul	Smith (TX)
King (NY)	Pease	Souder
Kingston	Peterson (PA)	Spence
Knollenberg	Petri	Stearns
Kolbe	Pickering	Stump
Kuykendall	Pitts	Sununu
LaHood	Pombo	Sweeney
Largent	Porter	Talent
Latham	Portman	Tancredo
LaTourette	Pryce (OH)	Tanner
Lazio	Quinn	Tauzin
Leach	Radanovich	Taylor (NC)
Lewis (CA)	Ramstad	Terry
Lewis (KY)	Regula	Thomas
Linder	Reynolds	Thornberry
Lipinski	Riley	Thune
LoBiondo	Rogan	Tiahrt
Lucas (KY)	Rogers	Toomey
Lucas (OK)	Rohrabacher	Upton
Manzullo	Ros-Lehtinen	Vitter
McCollum	Roukema	Walden
McCrery	Royce	Walsh
McHugh	Ryan (WI)	Wamp
McInnis	Ryun (KS)	Watkins
McIntosh	Salmon	Watts (OK)
McKeon	Sanford	Weldon (FL)
Metcalf	Saxton	Weldon (PA)
Mica	Scarborough	Weller
Miller (FL)	Schaffer	Whitfield
Miller, Gary	Sensenbrenner	Wicker
Moran (KS)	Sessions	Wilson
Morella	Shadegg	Wolf
Myrick	Shaw	Young (AK)
Nethercutt	Shays	Young (FL)
Ney	Sherwood	

## NAYS—203

Abercrombie	Evans	McCarthy (NY)
Ackerman	Farr	McDermott
Allen	Fattah	McGovern
Andrews	Filner	McIntyre
Baird	Ford	McKinney
Baldacci	Frank (MA)	McNulty
Baldwin	Frost	Meehan
Barcia	Gejdenson	Meek (FL)
Barrett (WI)	Gephardt	Meeks (NY)
Becerra	Gonzalez	Menendez
Bentsen	Gutierrez	Millender
Berkley	Hall (OH)	McDonald
Berman	Hall (TX)	Miller, George
Berry	Hastings (FL)	Minge
Bishop	Hill (IN)	Mink
Blagojevich	Hilliard	Moakley
Blumenauer	Hinchey	Mollohan
Bonior	Hinojosa	Moore
Borski	Hoeffel	Moran (VA)
Boswell	Holden	Murtha
Boyd	Holt	Nadler
Brady (PA)	Hooley	Napolitano
Brown (FL)	Hoyer	Neal
Brown (OH)	Inslee	Oberstar
Capps	Jackson (IL)	Obey
Capuano	Jackson-Lee	Oliver
Cardin	(TX)	Ortiz
Carson	Jefferson	Owens
Clay	John	Pallone
Clayton	Johnson, E. B.	Pascarell
Clement	Jones (OH)	Pastor
Clyburn	Kanjorski	Payne
Condit	Kaptur	Pelosi
Conyers	Kennedy	Peterson (MN)
Costello	Kildee	Phelps
Coyne	Kilpatrick	Pickett
Cramer	Kind (WI)	Pomeroy
Crowley	Klecza	Price (NC)
Cummings	Klink	Rahall
Danner	Kucinich	Rangel
Davis (FL)	LaFalce	Reyes
Davis (IL)	Lampson	Rivers
DeFazio	Lantos	Rodriguez
DeGette	Larson	Roemer
Delahunt	Lee	Rothman
DeLauro	Levin	Roybal-Allard
Deutsch	Lewis (GA)	Rush
Dicks	Lofgren	Sabo
Dingell	Lowe	Sanchez
Dixon	Luther	Sanders
Doggett	Maloney (CT)	Sandlin
Dooley	Maloney (NY)	Sawyer
Doyle	Markey	Schakowsky
Edwards	Martinez	Scott
Engel	Mascara	Sherman
Eshoo	Matsui	Shows
Etheridge	McCarthy (MO)	Sisisky

Skelton	Thompson (CA)	Waters
Slaughter	Thompson (MS)	Watt (NC)
Smith (WA)	Thurman	Waxman
Snyder	Tierney	Weiner
Spratt	Towns	Wexler
Stabenow	Trafficant	Weygand
Stark	Turner	Wise
Stenholm	Udall (CO)	Woolsey
Strickland	Udall (NM)	Wu
Stupak	Velasquez	Wynn
Tauscher	Vento	
Taylor (MS)	Visclosky	

## NOT VOTING—5

Brown (CA)	Graham	Serrano
Fossella	Green (TX)	

So the resolution was agreed to.

A motion to reconsider the vote whereby said resolution was agreed to was, by unanimous consent, laid on the table.

## 74.11 YEAR 2000 READINESS AND RESPONSIBILITY

Mr. GOODLATTE, pursuant to House Resolution 234, called up the following conference report (Rept. No. 106-212):

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 775), to establish certain procedures for civil actions brought for damages relating to the failure of any device or system to process or otherwise deal with the transition from the year 1999 to the year 2000, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

### SECTION 1. SHORT TITLE; TABLE OF SECTIONS.

(a) **SHORT TITLE.**—This Act may be cited as the “Y2K Act”.

(b) **TABLE OF SECTIONS.**—The table of sections for this Act is as follows:

- Sec. 1. Short title; table of sections.
- Sec. 2. Findings and purposes.
- Sec. 3. Definitions.
- Sec. 4. Application of Act.
- Sec. 5. Punitive damages limitations.
- Sec. 6. Proportionate liability.
- Sec. 7. Prolitigation notice.
- Sec. 8. Pleading requirements.
- Sec. 9. Duty to mitigate.
- Sec. 10. Application of existing impossibility or commercial impracticability doctrines.
- Sec. 11. Damages limitation by contract.
- Sec. 12. Damages in tort claims.
- Sec. 13. State of mind; bystander liability; control.
- Sec. 14. Appointment of special masters or magistrate judges for Y2K actions.
- Sec. 15. Y2K actions as class actions.
- Sec. 16. Applicability of State law.
- Sec. 17. Admissible evidence ultimate issue in State courts.
- Sec. 18. Suspension of penalties for certain year 2000 failures by small business concerns.

### SEC. 2. FINDINGS AND PURPOSES.

(a) **FINDINGS.**—The Congress finds the following:

(1)(A) Many information technology systems, devices, and programs are not capable of recognizing certain dates in 1999 and after December 31, 1999, and will read dates in the year 2000 and thereafter as if those dates represent the year 1900 or thereafter or will fail to process dates after December 31, 1999.

(B) If not corrected, the problem described in subparagraph (A) and resulting failures could

incapacitate systems that are essential to the functioning of markets, commerce, consumer products, utilities, Government, and safety and defense systems, in the United States and throughout the world.

(2) It is in the national interest that producers and users of technology products concentrate their attention and resources in the time remaining before January 1, 2000, on assessing, fixing, testing, and developing contingency plans to address any and all outstanding year 2000 computer date-change problems, so as to minimize possible disruptions associated with computer failures.

(3)(A) Because year 2000 computer date-change problems may affect virtually all businesses and other users of technology products to some degree, there is a substantial likelihood that actual or potential year 2000 failures will prompt a significant volume of litigation, much of it insubstantial.

(B) The litigation described in subparagraph (A) would have a range of undesirable effects, including the following:

(i) It would threaten to waste technical and financial resources that are better devoted to curing year 2000 computer date-change problems and ensuring that systems remain or become operational.

(ii) It could threaten the network of valued and trusted business and customer relationships that are important to the effective functioning of the national economy.

(iii) It would strain the Nation's legal system, causing particular problems for the small businesses and individuals who already find that system inaccessible because of its complexity and expense.

(iv) The delays, expense, uncertainties, loss of control, adverse publicity, and animosities that frequently accompany litigation of business disputes could exacerbate the difficulties associated with the date change and work against the successful resolution of those difficulties.

(4) It is appropriate for the Congress to enact legislation to assure that the year 2000 problems described in this section do not unnecessarily disrupt interstate commerce or create unnecessary caseloads in Federal courts and to provide initiatives to help businesses prepare and be in a position to withstand the potentially devastating economic impact of such problems.

(5) Resorting to the legal system for resolution of year 2000 problems described in this section is not feasible for many businesses and individuals who already find the legal system inaccessible, particularly small businesses and individuals who already find the legal system inaccessible, because of its complexity and expense.

(6) Concern about the potential for liability—in particular, concern about the substantial litigation expense associated with defending against even the most insubstantial lawsuits—is prompting many persons and businesses with technical expertise to avoid projects aimed at curing year 2000 computer date-change problems.

(7) A proliferation of frivolous lawsuits relating to year 2000 computer date-change problems by opportunistic parties may further limit access to courts by straining the resources of the legal system and depriving deserving parties of their legitimate rights to relief.

(8) Congress encourages businesses to approach their disputes relating to year 2000 computer date-change problems responsibly, and to avoid unnecessary, time-consuming, and costly litigation about Y2K failures, particularly those that are not material. Congress supports good faith negotiations between parties when there is such a dispute, and, if necessary, urges the parties to enter into voluntary, non-binding mediation rather than litigation.

(b) **PURPOSES.**—Based upon the power of the Congress under Article I, Section 8, Clause 3 of the Constitution of the United States, the purposes of this Act are—

(1) to establish uniform legal standards that give all businesses and users of technology prod-

ucts reasonable incentives to solve year 2000 computer date-change problems before they develop;

(2) to encourage continued remediation and testing efforts to solve such problems by providers, suppliers, customers, and other contracting partners;

(3) to encourage private and public parties alike to resolve disputes relating to year 2000 computer date-change problems by alternative dispute mechanisms in order to avoid costly and time-consuming litigation, to initiate those mechanisms as early as possible, and to encourage the prompt identification and correction of such problems; and

(4) to lessen the burdens on interstate commerce by discouraging insubstantial lawsuits while preserving the ability of individuals and businesses that have suffered real injury to obtain complete relief.

### SEC. 3. DEFINITIONS.

In this Act:

(1) **Y2K ACTIONS.**—The term “Y2K action”—

(A) means a civil action commenced in any Federal or State court, or an agency board of contract appeal proceeding, in which the plaintiff's alleged harm or injury arises from or is related to an actual or potential Y2K failure, or a claim or defense arises from or is related to an actual or potential Y2K failure;

(B) includes a civil action commenced in any Federal or State court by a government entity when acting in a commercial or contracting capacity; but

(C) does not include an action brought by a government entity acting in a regulatory, supervisory, or enforcement capacity.

(2) **Y2K FAILURE.**—The term “Y2K failure” means failure by any device or system (including any computer system and any microchip or integrated circuit embedded in another device or product), or any software, firmware, or other set or collection of processing instructions to process, to calculate, to compare, to sequence, to display, to store, to transmit, or to receive year-2000 date-related data, including failures—

(A) to deal with or account for transitions or comparisons from, into, and between the years 1999 and 2000 accurately;

(B) to recognize or accurately to process any specific date in 1999, 2000, or 2001; or

(C) accurately to account for the year 2000's status as a leap year, including recognition and processing of the correct date on February 29, 2000.

(3) **GOVERNMENT ENTITY.**—The term “government entity” means an agency, instrumentality, or other entity of Federal, State, or local government (including multijurisdictional agencies, instrumentalities, and entities).

(4) **MATERIAL DEFECT.**—The term “material defect” means a defect in any item, whether tangible or intangible, or in the provision of a service, that substantially prevents the item or service from operating or functioning as designed or according to its specifications. The term “material defect” does not include a defect that—

(A) has an insignificant or de minimis effect on the operation or functioning of an item or computer program;

(B) affects only a component of an item or program that, as a whole, substantially operates or functions as designed; or

(C) has an insignificant or de minimis effect on the efficacy of the service provided.

(5) **Personal injury.**—The “personal injury” means physical injury to a natural person, including—

(A) death as a result of a physical injury; and

(B) mental suffering, emotional distress, or similar injuries suffered by that person in connection with a physical injury.

(6) **STATE.**—The term “State” means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Northern Mariana Islands, the United States Virgin Islands, Guam, American Samoa, and any other